

Washington State Criminal Sentencing Task Force Meeting

June 2, 2022

10:00am-4:00pm

Hybrid Meeting: In-Person and Via ZOOM

Agenda

Agenda

- Task Force Introductions and Updates
- Review Task Force Input on Three Policy Goals
- Review and Discuss Potential Recommendations on Community Intermediate Sanctions
- Review and Discuss Potential Recommendations on Misdemeanor Scoring Rules

Agenda

9:30am

Coffee and Informal
Conversation

10:00am

Welcome and Agenda Review

10:10am

Introductions & Updates

10:40am

Review Task Force Input on 3
Policy Goals

11:00am

Potential Recommendation
9.1: Create A Community
Intermediate Sanctions And
Reintegrative Services
Program

12:30pm

LUNCH

1:30pm

Potential Recommendations:
Misdemeanors Scoring Rules

2:15pm

BREAK

2:30pm

Cont. Potential
Recommendations:
Misdemeanors Scoring Rules

3:30pm

Public Comment

3:50pm

Recap, Action Items, & Closing
Reflections

4:00pm

Adjourn

Hybrid Meeting Groundrules

In the Puyallup Room

Avoid Side Conversations: avoid cross-talks and side conversations as they can be audibly distracting and confusing to your remote colleagues.

Speak Clearly: There are mics around the room but to ensure those in the Zoom room can hear, please speak up.

Mute Electronic Devices

Reminder, you are on camera and this meeting is being recorded.

Hybrid Meeting Groundrules

In the ZOOM Room

Mute your audio: Whether you've joined by phone or video, please mute your audio until just before it's your turn to speak. That helps improve the sound quality for everyone. You can mute/unmute by clicking on the microphone icon or by holding down the space bar.

If you cannot hear people speaking in the room, please let your Zoom facilitator, Maggie Counihan know.

Camera On (if doable): Strongly encourage cameras on so those both in-person and virtual can see everyone who is present and participating. everyone to join by video. Personal presence is important for collaborative group meetings, and even more critical for these hybrid meetings.

Gallery view: We ask that you select gallery view (in the top left corner of your computer screen), so you can see everyone in both rooms.

Zoom Chat Reminder: We have disabled the private chat function to adhere to your groundrule of no side conversations.

*****If you want to chat to the facilitators or pass along info to the Task Force, please send a chat message to Maggie Counihan.**

10:10 -
10:25am

Task Force Introductions

- **Members and Alternates:** Please state name, affiliation, and constituency you represent.

Task Force Groundrules

Criminal Sentencing Task Force Groundrules

- **Be Respectful**
 - **One person speaks at a time; listen when others are speaking, avoid interrupting and side conversations.**
 - Keep comments brief so everyone gets a chance to share their thoughts. Avoid dominating the discussion.
 - Hear and respect all opinions.
 - Silence cell phones and refrain from using laptops during the meeting, except to take notes.
- **Be Constructive**
 - **Acknowledge that all participants bring with them legitimate purposes, goals, concerns, and interests, whether or not you are in agreement with them.**
 - Openly explore issues.
 - Act in “good faith,” seeking to resolve conflicts and identify solutions.
 - State concerns and interests clearly, listen carefully to and assume the best in others. Leave negative assumptions and attitudes at the door.
 - Share comments that are solution focused, rather than repeating past discussions.
 - **It’s OK to disagree, it is not OK to make personal attacks.**
 - Minimize the use of jargon and acronyms, define and explain when used.
 - **Work towards consensus. Be willing to compromise.**
 - Ask for clarification when uncertain of what another person is saying. Ask questions rather than make assumptions.
- **Be Productive**
 - Begin and end meetings on time.
 - Respect time constraints.
 - Adhere to the agenda as much as possible, focusing on the subject at hand.

CSTF 3 Policy Goals:

In 2019, the Legislature established the Washington State Criminal Sentencing Task Force (Task Force) to review state sentencing laws, including a consideration of the Sentencing Guidelines Commission's (SGC) 2019 report, and develop recommendations for the purpose of:

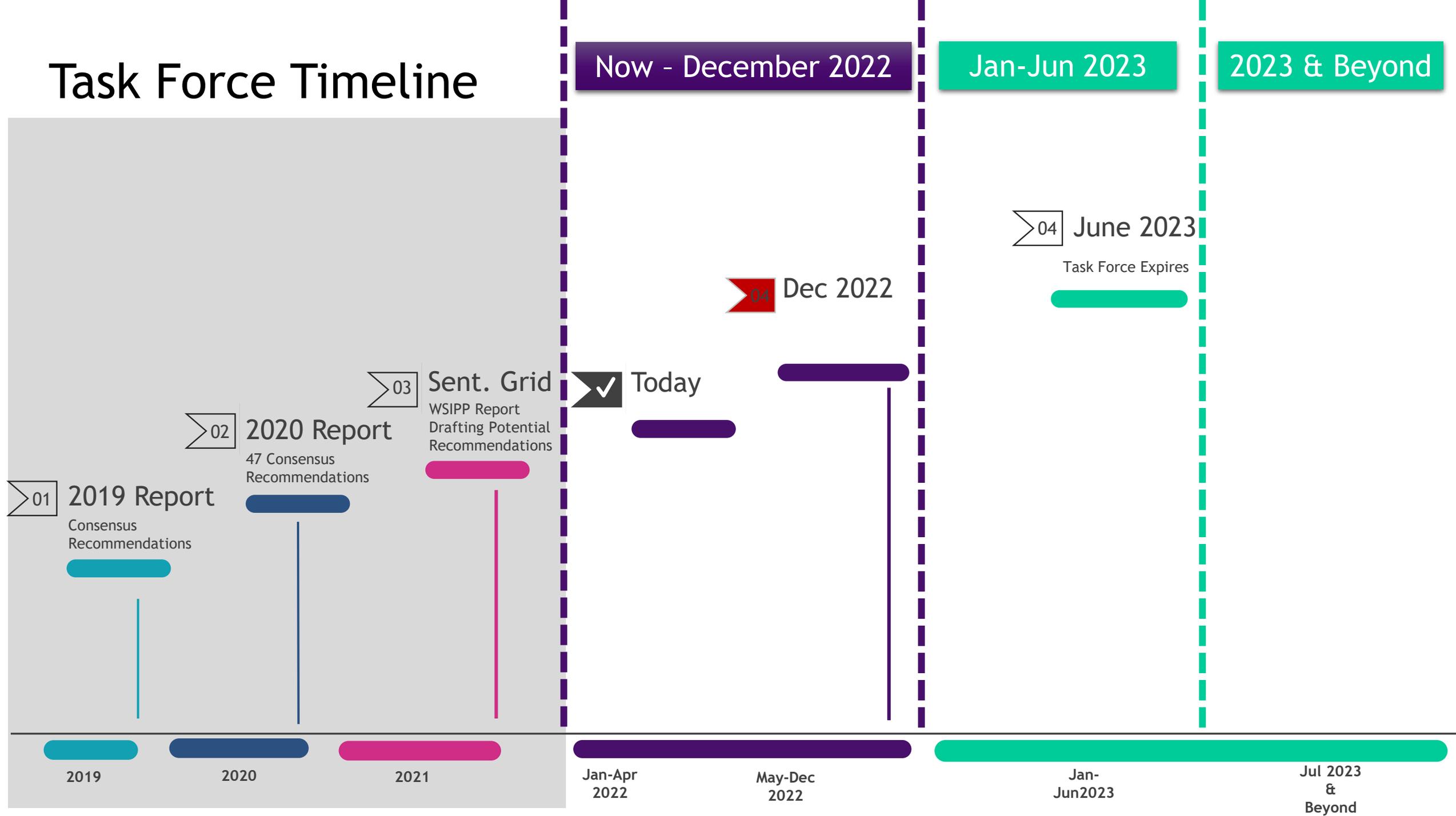
- a) Reducing sentencing implementation complexities and errors;
- b) Improving the effectiveness of the sentencing system; and
- c) Promoting and improving public safety.

10:25 -
10:40am

Task Force Updates

- Co-Chair Updates
- Updates from Facilitation Team
 - Workplan and Input From Last Month's Meeting

Task Force Timeline



Now - December 2022

Jan-Jun 2023

2023 & Beyond

04 June 2023

Task Force Expires

04 Dec 2022

✓ Today

03 Sent. Grid
WSIPP Report
Drafting Potential
Recommendations

02 2020 Report
47 Consensus
Recommendations

01 2019 Report
Consensus
Recommendations

2019

2020

2021

Jan-Apr
2022

May-Dec
2022

Jan-
Jun 2023

Jul 2023
&
Beyond

What's Possible Discussion

Purpose and Goal of Discussion: dialogue, identify, and create shared understanding, on what is realistically doable and importantly, what is not doable under the timeline of the Task Force. To identify what needs to happen and the actions to be taken now-December, and in 2023 and then beyond.

Framework We Will Be Using to Guide Our Discussion

Vision:

- What needs to happen?
- When: now-Dec? Jan-June? 2023 and beyond?
- And Why?

Reality:

- What is realistically doable?
- By when?

Critical Actions/Choices:

- What are the strategic actions, critical decisions, and/or tradeoffs that need to be made to achieve what is realistically doable?

The Road Ahead Discussion: Key Take-Aways and Updates

May-December

- **Strategy/plan for Implementation via Legislature**
 - Legislation Working Group is re-convening monthly starting this month
- **Road Map of the Recommendations** – Guide to which/how recommendations are connected.
 - Grid Subgroup will begin work of packaging all protentional rec's in July. At that time will also identify the connections.
- **Funding Strategy**

Mission Critical Conversations Still to be had

- Retroactivity
- Criteria for Determining Sentence Ranges – Revisiting the Formulaic Approach – Systematic Structure
- Data Collection – Monitoring, Evaluation, Adaptive Management
- How/Ways to reduce sentencing disparity and disproportionality

2022 Work Plan

- **July Meeting:** discussions on potential rec's developed by Grid and Sentencing Alternatives Subgroups: Offense classification expansion/organization proposal; CHS – washouts, ranges; current sentencing alternatives
- **August:** discussion on the full package of recommendations – all potential rec's stitched together
- **September:** start consensus decision-making on the full package of recommendations
- **October:** continue consensus decision-making
- **November:** continue consensus decision-making, with goal of reaching final consensus. Draft Report. Joint Legislative Work Session
- **December:** Final report – last review and opportunity to address any unresolved issues

2022 Work Plan

Meeting dates to confirm:

- **Tentative July 12th and July 26th, all-day meetings of the Grid Subgroup** to assemble package of potential recommendations. Will check-in with members over the lunch break to confirm attendance for these dates.
- **August 31/September 1, potential two-day consensus session so Task Force** can review all grid recommendations together and test for consensus on the package of recommendations. This will be a work session to discuss issues around any/all thumbs down during first consensus test, followed by the first round of seeking consensus.

10:40 -
11:00am

Review Input From Last Months Meeting:

**Revisiting the 3 Policy Goals in
Relation to the Sentencing Guidelines
Grid (Task Force Scope of Work)**

Members and Alternates

On separate sticky notes for each of the 3 policy goals, you all wrote your responses to the following questions, and then posted them on the wall.

When finished, you all read what others posted & reflected verbally on the exercise.

1

Reducing Sentencing Implementation Complexities and Errors

- What are the implementation complexities and errors associated with the sentencing guidelines grid that need to be addressed?
- Why?
- Ideas about how to address?

2

Improving the Effectiveness of the Sentencing System

- What aspects of the sentencing grid need improvement/are not effective?
- Ideas for how to address?
- How will it improve the overall effectiveness of the system?

3

Promoting and Improving Public Safety

- How does your constituency define public safety?
- What specific improvements to the sentencing grid would promote public safety?
- Explain why/how.

Some Themes from Responses and Discussion

Sentencing Implementation Complexity and Errors

- Calculation of Criminal History Score
 - Scoring Exceptions – Multipliers
- Consecutive/Concurrent
- Not an integrated system - overlapping, duplicative
 - Elements that impact sentence lengths outside of the grid OSL and CHS
 - Multiple offense classifications
- Enhancements
- Lack of standardized J&S
- Lack of transparency for all parties
- Earned time policies
- Aggravators
- Stat max

Some Themes from Responses and Discussion

Improving Effectiveness of the Sentencing System

- Address disparity and disproportionality – the elements of sentencing that show disparate outcomes.
- Better balance of discretion
- Better address/reduce recidivism
- Increase/improve re-entry programs and services
- Increasing transparency
- Opportunities for review
- Data collection, review, evaluation
- Better balance of retributive and rehabilitative. Increase/improve rehabilitative and restorative approaches.
- Better alignment of offense classifications

Some Themes from Responses and Discussion

Promoting and Improving Public Safety

- Reducing recidivism
 - Re-entry programs and support services
 - Rehabilitative services
 - Restorative services
 - Victim support services
 - Family support services
 - Both accountability and rehabilitative
- Sentencing Alternatives
- Trauma informed approaches
- Public perceptions of public safety
- Risk/needs/responsivity approaches

11:00 -
12:30pm

Potential Recommendation 9.1:
**Create a “Community
Intermediate Sanctions &
Reintegrative Services”
Program**

A Quick Reminder: Potential Rec's 6-9

Potential Recommendation 6:

(Establish a formula for determining grid cell ranges for OSLs 1-5)

The sentence lengths in the simulated grid are created using a formula that “anchors” sentence lengths for each felony class in the statutory maximum; this creates straddle cells – such that sentences may be jail or prison confinement.

	0	1	2	3	4	5	6	7	8	9+										
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Yellow cells were previously presumptive prison sentences, but are “straddle” cells with the formula, such that sentences may be jail or prison confinement.

Potential Recommendation 7:

If the maximum sentence based on the formula is 12 months or less, the minimum is automatically reduced to zero.

	3	4	5	6	7	8	9+						
5	18	6	22	8	26	9	32	11	38	13	46	16	54
4	15	5	18	6	22	8	26	9	32	11	38	13	45
3	12	4	14	5	17	6	21	7	25	9	30	10	36
2	8	3	10	3	12	4	14	5	17	6	21	8	27
1	6	2	7	2	8	3	10	3	12	4	14	5	18
0 - 365 days													

Affects minimums that are 3 months or less.

	3	4	5	6	7	8	9+						
5	18	6	22	8	26	9	32	11	38	13	46	16	54
4	15	5	18	6	22	8	26	9	32	11	38	13	45
0	12	4	14	5	17	6	21	7	25	9	30	10	36
0	8	0	10	0	12	4	14	5	17	6	21	8	27
0	6	0	7	0	8	0	10	0	12	4	14	5	18
0 - 365 days													

Two Ways to Address Straddle Cells

Potential Recommendation 8 eliminate straddle cells: *If the maximum based on the formula is more than 12 months, the minimum must be at least 12 months and a day.*

Or

Potential Recommendation 9: Keep Straddle Cells and Create an Intermediate Sanction Zone.

Potential Recommendation 9.1

Community Intermediate Sanctions and Reintegrative Services Program (CISRS)

Sentencing Alternatives Workgroup has been looking at options for integrating sentencing alternatives onto the grid and wanted to further explore Potential Recommendation 9, which would keep straddle cells and create a state-funded community intermediate sanctions program.

The Workgroup met several times to discuss and has put together a draft proposal as a starting point to build out what such a program would entail.

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos
16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos
15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos
14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos
13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos
12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos
11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos
10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos
9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos
8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos
7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos
5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos
4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos

CISRS: County Intermediate Sanctions and Reintegrative Services Sentencing Alternative.
RDOSA: Residential DOSA, for eligible individuals based on offense type and criminal history
PDOSA: Prison DOSA, for eligible individuals based on offense type and criminal history
FOSA: Parenting Sentencing Alternative, for eligible individuals
 Cells in the hatched zone may be eligible for the FTOW sentencing alternative.

Overview

Counties would operate their intermediate sanctions (CISRS) programs and the state would oversee to ensure programs meet a minimum level of care.

- Counties would operate their intermediate sanctions program, but the program must receive state approval every XX years to ensure that the programs are meeting a minimum standard. The state could set requirements for that plan that must be reviewed annually or biannually (i.e., approvals for each two-year budget cycle).

- Programs would need two components: 1) supervision/sanctions that meet minimum standards and 2) access to rehabilitative and reintegration services. This is not just a program focused on surveillance, but also treatment.
- The state could also set requirements for the type of data that must be collected and reported (to the state) on an annual basis.

		Simulated Grid																		Agg Departure Cap	Repeat SV/Violent										
		0	1	2	3	4	5	6	7	8	9+																				
		Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																													
Zone 4: State Prison	18	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos								
	17	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos								
	16	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos								
	15	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos								
	14	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos								
	13	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos								
	12	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos								
	11	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos								
	10	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos								
Zone 3: DOSAs, FOSAs, State Prison	9	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos								
	8	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos								
Zone 2: CISRS, DOSA, FOSA <=12 Jail; >12 Prison	7	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos								
	6	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos								
Zone 1: CISRS, RDOSA, Jail	5	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos								
	4	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos								
	3	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos								
	2	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos								
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos								

Overview Cont.

- The state may establish certain minimum levels of care for the general program, but also for specific populations of individuals. For example, the state may require that individuals receiving a CISRS sentence for an offense at a certain seriousness level or for an individual with a certain level of criminal history must have a higher level of supervision (such as electronic home monitoring or day reporting centers).

		Simulated Grid																		Agg Departure Cap	Repeat SV/Violent										
		0	1	2	3	4	5	6	7	8	9+																				
		Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																													
Zone 4: State Prison	18																														
	17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos								
	16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos								
	15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos								
	14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos								
	13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos								
	12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos								
	11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos								
	10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos								
Zone 3: DOSA, FOSA, State Prison	9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos								
	8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos								
Zone 2: CISRS, DOSA, FOSA <=12 Jail; >12 Prison	7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos								
	6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos								
Zone 1: CISRS, RDOSA, Jail	5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos								
	4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos								
	3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos								
	2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos								
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos								

- Similarly, the state may require that all individuals sentenced to the CISRS program receive some type of needs assessment to inform treatment.
- The state may also create consistent standards for what types of behaviors would require a revocation of the CISRS sentence and a return to local incarceration.

Zone 1

Zone 1 is the expanded “southwest corner” of the grid. Jail sentences would be locally resourced, as in the status quo. If sentenced to CISRS program, access to funds via CISRS block grant.

- Under potential recommendation #7, the number of cells in which there is an option for 0 months of incarceration would increase.
- However, the actual impact on incarceration will vary because of pre-trial confinement. Under the current system, some individuals sentenced in the southwest corner are sentenced to time served, therefore they do not receive additional incarceration after sentencing.

		Simulated Grid																		Agg Departure Cap	Repeat SV/Violent										
		0	1	2	3	4	5	6	7	8	9+																				
		Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																													
Zone 4: State Prison	18	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos								
	17	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos								
	16	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos								
	15	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos								
	14	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos								
	13	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos								
	12	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos								
	11	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos								
	10	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos								
Zone 3: DOS, FOSA, State Prison	9	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos								
	8	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos								
Zone 2: CISRS, DOS, FOSA <=12 Jail; >12 Prison	7	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos								
	6	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos								
Zone 1: CISRS, RDOSA, Jail	5	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos								
	4	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos								
	3	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos								
	2	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos								
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos								

Zone 1 Cont.

Zone 1 is the expanded “southwest corner” of the grid. Jail sentences would be locally resourced, as in the status quo. If sentenced to CISRS program, access to funds via CISRS block grant.

- This potential recommendation expands ranges in the southwest corner, where WSIPP found frequent disproportionality in sentencing.
- However, this change could lead to geographic differences due to differences in varying philosophies of punishment in combination with wide ranges. And judges may be unlikely to sentence to 0 months incarceration without some other alternative (e.g., probation).
- There were some concerns that some judges may be unlikely to sentence individuals to a local sentencing alternative. To incentivize the development and use of these programs, individuals sentenced to the CISRS alternative would be eligible for the use of state funds while those sentenced to local confinement in jail would be served only by local resources.

Simulated Grid

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos
16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos
15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos
14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos
13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos
12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos
11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos
10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos
9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos
8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos
7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos
5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos
4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos

Click to add text

Zone 2

Zone 2 is the area where there are straddle cells – such that sentences may be jail or prison confinement.

Stipulate that all sentences for individuals in Zone 2 are paid for by the state.

- Justification: if they are not prison sentences, it is saving DOC funding by reducing DOC caseloads, so that funding could be diverted to the local courts to support non-incarcerative alternatives.

For sentences in this zone, presumptive sentence is a sentencing alternative that is served locally.

- Could be operated by local courts but funded by the state.
- Reduces prison sentences/beds/costs, so cost savings can be used to fund the CISRS programs.

		Simulated Grid										Agg Departure Cap	Repeat SV/Violent										
		0	1	2	3	4	5	6	7	8	9+												
		18 Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
Zone 4: State Prison	17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos
	16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos
	15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos
	14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos
	13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos
	12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos
	11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos
	10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos
	9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos
Zone 3: DOSAs, FOSAs, State Prison	8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos
	7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos
	6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos
Zone 2: CISRS, DOSA, FOSA <=12 Jail; >12 Prison	5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos
	4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
	3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
	2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos
Zone 1: CISRS, RDOSA, Jail	4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
	3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
	2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos

Zone 3

Sentences in Zone 3 are DOC sentences and may be eligible for existing sentencing alternatives.

- By reducing the number of DOC sentences in Zone 1 and 2, DOC can increase its focus on providing appropriate services for individuals sentenced in Zone 3.

Simulated Grid

	0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent										
18	Life Sentence without parole/death penalty for defendants at or over the age of 18. For defendants under the age of 18, a term of 25 years to Life																					
17	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos
16	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos
15	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos
14	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos
13	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos
12	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos
11	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos
10	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos
9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos
8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos
7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos
6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos
5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos
4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos

Zone 4:
State Prison

Zone 3:
DOS, FOSA, State Prison

Zone 2:
CISRS, DOSA, FOSA
<=12 Jail; >12 Prison

Zone 1:
CISRS, RDOSA, Jail

Examples of Intermediate Sanctions

Sentencing options that fall between probation and incarceration.

- Intensive supervision probation
- Day reporting centers
- House arrest
- Electronic home monitoring
- Community service
- Intermittent confinement (e.g., work release or weekenders)
- Mandatory treatment conditions
- Residential community corrections (e.g., halfway houses)

Funding Model

Funding would be provided by the State to counties through a block grant based on a formula, modeled on the Juvenile Court Block Grant Program.

- Funds would be allocated based on county size, caseloads, use of the program, etc.
- There would be a minimum level of funding to support staffing and capital costs of running a CISRS program.
- Funds from the block grant program can support staffing and capital costs that may also allow counties to expand the types of services offered to individuals in jail or individuals sentenced in district court.
- Thus, this program could have beneficial spillover effects for an even larger population of individuals involved in the criminal legal system.
- Additional savings as an effect of the investment in effective programs to reduce overall recidivism and future caseloads.

Juvenile Court Block Grant

In accordance with RCW13.06.020, the state appropriates approximately \$38 million to local county juvenile courts each two-year budget cycle.

To reduce reliance on state-operated institutions, this funding provides community-based responses for youth who commit crimes.

The funding also assists with the application of disposition (sentencing) programs.

DCYF's Juvenile Rehabilitation program administers these dollars across the 33 county juvenile court jurisdictions.

Funded Services and Programs for Victims

- Victim services and programs would also be included in the program.
- This could include a broad array of services and programs that respond to the emotional and physical needs of victims such as support services throughout the criminal legal process, counseling, crisis intervention, shelter, trauma and therapeutic services, restorative justice, etc.

Questions the Alternatives Workgroup Has Identified So Far:

- How should requirements for an IS sentence be determined? Would the terms (e.g., EHM vs. day reporting center) be determined by the judge ordering the alternative or by the local IS program supervisor?
- What level of quality assurance and oversight would the state provide? For Juvenile EBPs, the state operates quality assurance protocols and standards for the local court programs. The proposed IS structure is intended to provide more flexibility to the local courts, so there may not be an exhaustive list of specific programs offered in the courts.
- Should the grant funding include funds for ongoing research/evaluation?

Questions the Alternatives Workgroup Has Identified So Far:

- How do the therapeutic programs develop locally? What about locations that don't have the access to these types of programs?
 - State could have general types of services that a qualifying CISRS program should provide, e.g., employment/job training, education, housing, cognitive behavioral training.
- How to address tort concerns w/ local liability?
- How could the implementation structure (i.e., centralized, decentralized, hybrid) most equitably serve individuals who do not reside in their county of conviction and court oversight?
- Resource allocations: how to recognize different resource needs—to build a new program, further support existing programs that are under resourced, or expand robust programs.

12:30 - 1:30pm

LUNCH

1:30 - 3:30pm

Potential Recommendations: Misdemeanor Scoring Rules

A Quick Refresher On Criminal History Scoring in WA

Criminal History Score

- Range from 0 – 9+
- Based on prior convictions and other current offenses
- Within a row, as criminal history score increases, sentence lengths increase

*Exception: unranked offenses are 0 – 12 months regardless of criminal history score

		CRIMINAL HISTORY SCORE									
		0	1	2	3	4	5	6	7	8	9+
S E R I O U S N E S S L E V E L	XV										
	XV	280 m	291.5 m	304 m	316 m	327.5 m	339.5 m	364 m	394 m	431.5 m	479.5 m
		240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	312 - 416	338 - 450	370 - 493	411 - 548
	XIV	171.5 m	184 m	194 m	204 m	215 m	225 m	245 m	266 m	307 m	347.5 m
		123 - 220	134 - 234	144 - 244	154 - 254	165 - 265	175 - 275	195 - 295	216 - 316	257 - 357	298 - 397
	XIII	143.5 m	156 m	168 m	179.5 m	192 m	204 m	227.5 m	252 m	299.5 m	347.5 m
		123 - 164	134 - 178	144 - 192	154 - 205	165 - 219	175 - 233	195 - 260	216 - 288	257 - 342	298 - 397
	XII	108 m	119 m	129 m	140 m	150 m	161 m	189 m	207 m	243 m	279 m
		93 - 123	102 - 136	111 - 147	120 - 160	129 - 171	138 - 184	162 - 216	178 - 236	209 - 277	240 - 318
	XI	90 m	100 m	110 m	119 m	129 m	139 m	170 m	185 m	215 m	245 m
		78 - 102	86 - 114	95 - 125	102 - 136	111 - 147	120 - 158	146 - 194	159 - 211	185 - 245	210 - 280
	X	59.5 m	66 m	72 m	78 m	84 m	89.5 m	114 m	126 m	150 m	230.5 m
		51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
	IX	36 m	42 m	47.5 m	53.5 m	59.5 m	66 m	89.5 m	101.5 m	126 m	150 m
		31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
VIII	24 m	30 m	36 m	42 m	47.5 m	53.5 m	78 m	89.5 m	101.5 m	126 m	
	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144	
VII	17.5 m	24 m	30 m	36 m	42 m	47.5 m	66 m	78 m	89.5 m	101.5 m	
	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116	
VI	13m	18m	2y	2y 6m	3y	3y 6m	4y 6m	5y 6m	6y 6m	7y 6m	
	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102	
V	9m	13m	15m	17.5 m	25.5 m	38 m	47.5 m	59.5 m	72 m	84 m	
	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96	
IV	6m	9m	13m	15m	17.5 m	25.5 m	38 m	50 m	61.5 m	73.5 m	
	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84	
III	2m	5m	8m	11m	14m	19.5 m	25.5 m	38 m	50 m	59.5 m	
	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68	
II	0 - 90 days	4m	6m	8m	13m	16m	19.5 m	25.5 m	38 m	50 m	
	0 - 90 days	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57	
I	0 - 60 days	3m	4m	5.5m	8m	13m	16m	19.5 m	25.5 m		
	0 - 60 days	0 - 90 days	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	

Criminal History Score

Complex calculation

- Different offenses scored differently
- Includes juvenile dispositions
- “Multipliers” based on relationship between current offense and prior convictions
- Point added if on community custody
- Some offenses “wash out” after 5 – 10 years and no longer count for points

		CRIMINAL HISTORY SCORE									
		0	1	2	3	4	5	6	7	8	9+
		Life Sentence without Parole/Death Penalty for individuals at over the age of 18					For those under the age of 18 a term of 25 years to life				
S E R I O U S N E S S L E V E L	XVI	260 m	291.5 m	304 m	316 m	327.5 m	339.5 m	364 m	394 m	431.5 m	479.5 m
	XV	240 - 320	250 - 333	261 - 347	271 - 361	281 - 374	291 - 388	312 - 416	338 - 450	370 - 493	411 - 548
	XIV	171.5 m	184 m	194 m	204 m	215 m	225 m	245 m	266 m	307 m	347.5 m
	XIII	123 - 220	134 - 234	144 - 244	154 - 254	165 - 265	175 - 275	195 - 295	216 - 316	257 - 357	298 - 397
	XII	143.5 m	158 m	168 m	179.5 m	192 m	204 m	227.5 m	252 m	299.5 m	347.5 m
	XI	123 - 164	134 - 178	144 - 192	154 - 205	165 - 219	175 - 233	195 - 260	216 - 288	257 - 342	298 - 397
	X	108 m	119 m	129 m	140 m	150 m	161 m	189 m	207 m	243 m	279 m
	IX	93 - 123	102 - 136	111 - 147	120 - 160	129 - 171	138 - 184	162 - 216	178 - 236	209 - 277	240 - 318
	VIII	80 m	100 m	110 m	119 m	129 m	139 m	170 m	185 m	215 m	245 m
	VII	78 - 102	86 - 114	95 - 125	102 - 136	111 - 147	120 - 158	146 - 194	159 - 211	185 - 245	210 - 280
L E V E L	VI	59.5 m	66 m	72 m	78 m	84 m	89.5 m	114 m	126 m	150 m	230.5 m
	V	51 - 68	57 - 75	62 - 82	67 - 89	72 - 96	77 - 102	98 - 130	108 - 144	129 - 171	149 - 198
	IV	36 m	42 m	47.5 m	53.5 m	59.5 m	66 m	89.5 m	101.5 m	126 m	150 m
	III	31 - 41	36 - 48	41 - 54	46 - 61	51 - 68	57 - 75	77 - 102	87 - 116	108 - 144	129 - 171
	II	24 m	30 m	36 m	42 m	47.5 m	53.5 m	78 m	89.5 m	101.5 m	126 m
	I	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	46 - 61	67 - 89	77 - 102	87 - 116	108 - 144
	0 - 90 days	17.5 m	24 m	30 m	36 m	42 m	47.5 m	66 m	78 m	89.5 m	101.5 m
	0 - 60 days	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	41 - 54	57 - 75	67 - 89	77 - 102	87 - 116
	0 - 30 days	13m	18m	24m	30m	36m	42m	57m	67m	77m	87m
	0 - 15 days	12+ - 14	15 - 20	21 - 27	26 - 34	31 - 41	36 - 48	46 - 61	57 - 75	67 - 89	77 - 102
L E V E L	V	9m	13m	15m	17.5 m	25.5 m	38 m	47.5 m	58.5 m	72 m	84 m
	IV	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	41 - 54	51 - 68	62 - 82	72 - 96
	III	3 - 9	6 - 12	12+ - 14	13 - 17	15 - 20	22 - 29	33 - 43	43 - 57	53 - 70	63 - 84
	II	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 68
	I	0 - 90 days	4m	6m	8m	13m	16m	19.5 m	25.5 m	38 m	50 m
	0 - 60 days	2 - 6	3 - 9	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	43 - 57	
	0 - 30 days	3m	4m	5.5m	8m	13m	16m	19.5 m	25.5 m	38 m	
	0 - 15 days	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	
	0 - 7 days	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	
	0 - 3 days	2 - 5	2 - 6	3 - 8	4 - 12	12+ - 14	14 - 18	17 - 22	22 - 29	33 - 43	

Criminal History “Standard” Scoring

The general rule for scoring is that prior felony convictions count as:

- Adult offenses count as 1 point
- Juvenile Violent offenses count as 1 point
- Juvenile non-violent (NV) offenses count as 1/2 point (rounded down)

Criminal History “Standard” Scoring

The general rule for scoring continued:

- If there is more than one offense in a sentence, the current offenses will score against one another, but are run concurrently (at the same time). There are exceptions that we’ll go over in the scoring document (SV & certain weapon offenses)
- If a person was under community custody at the time of the current offense, 1 pt is added to the criminal history score.
- Inchoate offenses score as if they were a completed offense (example: Robbery 2° is a Violent offense and Attempted Robbery 2° is NV, but would be scored as Violent offense).
- Criminal history scores are not calculated for sentences for unranked. Unranked offenses do still count in a criminal history score if/when one is calculated.

Scoring Exceptions: Multiple Scoring for Adult Offenses

Current Offense:	Other Currents/Prior Offenses Score:
Violent	Violent = 2 pts
Serious Violent	SV = 3pts (for offenses not ran consecutive), Violents = 2 pts
Burglary 1	Burlary = 2 pts, Violents or SV = 2 pts
Felony Traffic	Veh Homicide or Veh Assault = 2 pts
Asslt or Homicide By Watercraft	Asslt or Homicide By Watercraft = 2 pts
Manufacture of Meth	Manufacture of Meth = 3 pts
Drug Offense* with history of Sex or SV offenses:	Prior Drugs* = 3 pts
Burglary 2 or Residential Burglary	Burglaries = 2 pts
Sex Offense (other than Failure to Register)	Sex = 3 pts
Failure to Register defined as Sex offense	Sex = 3 pts (except sex offense of FTR = 1 pt)
Domestic Violence (DV)	DV = 2 pts
*Definition of Drug excludes simple possession of controlled substances.	

Misdemeanor Scoring in Criminal History Score

Prior Misdemeanor convictions count in the criminal history score in four unique situations.

Felony Traffic

- a. Adult and Juvenile Vehicular Homicide or Vehicular Assault offenses count as 2 points
- b. Certain adult Traffic Misd/Gross Misd offenses (serious traffic offenses) count as 1 point
- c. Certain juvenile Traffic Misd/Gross Misd offenses (serious traffic offenses) count as 1/2 point
- d. Adult convictions of Operation of a Vessel under the Influence offenses count as 1 point and juvenile offenses for Operation of a Vessel offenses under the Influence count as 1/2 point.
- e. Any other felony offenses count standard

Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle without the Owner's Permission 1st degree or 2nd degree – Vehicular Prowling:

- a. Misdemeanor offense of Vehicular Prowling 2^o counts as 1 point
- b. Adult and Juvenile offenses of Theft 1^o or 2^o of a Motor Vehicle, Possession of Stolen Property 1^o or 2^o of a Motor Vehicle, Theft of a Motor Vehicle, Possession of a Stolen Vehicle, or Taking a Motor Vehicle without the Owner's Permission 1^o or 2, count as 3 points
- c. Any other felony offenses count standard

Homicide or Assault by Watercraft offenses:

- a. Adult and Juvenile Homicide or Assault by Watercraft offenses count as 2 points
- b. Certain adult Traffic Misd/Gross Misd offenses count as 1 point
- c. Certain juvenile Traffic Misd/Gross Misd offenses count as 1/2 point
- d. Any other felony offenses count standard

Felony Domestic Violence where DV was pleaded and proven:

- a. Count 2 points for each Adult offense where DV was pleaded/proven after 8/1/2011 for any of the following offenses: Violation of a No Contact or Protection Order, felony Harassment, felony Stalking, Burglary 1^o, Kidnapping 1^o or 2^o, Unlawful Imprisonment, Robbery 1^o or 2^o, Assault 1^o, 2^o or 3^o, or Arson 1^o or 2^o.
- b. Count 2 points for each Adult offense where DV was pleaded/proven after 7/23/2017 for any of the following offenses: Assault of a Child 1^o, 2^o or 3^o, or Criminal Mistreatment 1^o or 2^o.
- c. Count 1 point for each 2nd and subsequent Juvenile offense with DV was pleaded/proven after 8/1/2011 for the list of offenses under (a) above.
- d. Count one point for each adult offense for a repetitive domestic violence offense (misd/GMs), where domestic violence was pleaded/proven after 8/1/2011
- e. Any other felony offenses count standard

Misdemeanor Scoring in Criminal History Score

- These scoring exceptions depend on the type of current offense and the types of prior misdemeanor convictions.
- Some misdemeanors vary between local jurisdictions.
- As Superior Courts primarily handle *felony* offenses under the SRA, it may be argued that the criminal history score calculations should be limited to the same jurisdiction – *felony* offenses.
- The current misdemeanor scoring exceptions create confusion for courts and other agencies who use the CHS (e.g., Caseload Forecast Council, Department of Corrections).
- Grid subgroup discussions focused on the logic behind the four misdemeanor scoring exceptions and explored ways to achieve the same goals through alternative means while increasing transparency, simplifying the CHS calculation process (increasing efficiency), and reducing errors in calculating CHS.

Potential Recommendations: Misdemeanor Scoring

- The following potential recommendations include a separate change for each of the four current scoring exceptions.
- In combination, these changes would eliminate all special scoring exceptions for misdemeanors in the CHS.
- An additional potential recommendation would incorporate language into the SRA that would define the scope of the CHS as limited to prior felony convictions.

Reminder:

Potential Recommendation 15

15: Eliminate the offense-specific multipliers. And create a new column on the grid for repeat serious violent/violent offending.

Misdemeanor Scoring Exception 1: Felony Traffic

Felony Traffic (defined in RCW 9.94A.030) offenses:

- a. Adult and Juvenile Vehicular Homicide or Vehicular Assault offenses count as 2 points
- b. Certain adult Traffic Misd/Gross Misd offenses (serious traffic offenses) count as 1 point
- c. Certain juvenile Traffic Misd/Gross Misd offenses (serious traffic offenses) count as 1/2 point
- d. Adult convictions of Operation of a Vessel under the Influence offenses count as 1 point and juvenile offenses for Operation of a Vessel offenses under the Influence count as 1/2 point.
- e. Any other felony offenses count standard

Misdemeanor Scoring Exception 1: Felony Traffic

Felony Traffic (as defined in RCW 9.94A.030)

1. Vehicular homicide (RCW [46.61.520](#)),
2. Vehicular assault (RCW [46.61.522](#)),
3. Eluding a police officer (RCW [46.61.024](#)),
4. Felony hit-and-run injury-accident (RCW [46.52.020](#)(4)),
5. Felony driving while under the influence of intoxicating liquor or any drug (RCW [46.61.502](#)(6)), or
6. Felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW [46.61.504](#)(6))

Misdemeanor Scoring Exception 1: Felony Traffic

Potential Recommendation 28: Eliminate the special misdemeanor scoring exceptions for felony traffic.

Potential Recommendation 28a: Reclassify felony DUI and physical control from OSL 4 to OSL 6.

Misdemeanor Scoring Exception 1: Felony Traffic

Grid Subgroup Discussion Notes:

Reduces complexity and errors:

- Prior misdemeanor DUIs are themselves an element of felony DUI. Thus, in the status quo, the prior convictions both increase the seriousness of offense in the court and increase a person's criminal history score. This means that individuals charged with felony DUI will rarely have a CHS of 0 or 1.
- Eliminating the scoring exceptions without changing the offense seriousness level would create a situation where individuals may have a lesser sentence for the felony DUI than the mandatory minimum for a 3rd misdemeanor DUI which is 180 days.

Improving Effectiveness of the Sentencing System:

- Felony DUI is a class B felony. Reclassifying it as OSL 6 would put it in the middle of the grid where Class B offenses are generally concentrated. For an individual in OSL 6 with a CHS of 0, the recommended sentence range would be highly similar to the recommended sentence range of individuals in OSL 4 with a CHS of 3. Thus, prosecutors and judges would still be able to seek similar sentences, but without the unnecessary complication in the Criminal History Score.
- Felony PC would have to be reclassified as a class B felony if moved to OSL 6.

Misdemeanor Scoring Exception 2: Theft of a Motor Vehicle.....

Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle without the Owner's Permission 1st degree or 2nd degree – Vehicular Prowling Misdemeanor Prior

- a. Misdemeanor offense of Vehicular Prowling 2° counts as 1 point
- b. Adult and Juvenile offenses of Theft 1° or 2° of a Motor Vehicle, Possession of Stolen Property 1° or 2° of a Motor Vehicle, Theft of a Motor Vehicle, Possession of a Stolen Vehicle, or Taking a Motor Vehicle without the Owner's Permission 1° or 2, count as 3 points
- c. Any other felony offenses count standard

Misdemeanor Scoring Exception 2: Theft of a Motor Vehicle.....

***Potential Recommendation 29a:** Eliminate the special misdemeanor scoring exceptions for vehicular prowling and create a new subsection on Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle without the Owner's Permission 1st degree or 2nd degree for individuals with two prior misdemeanor convictions of vehicle prowl. Make these new subsections a higher OSL.*

Misdemeanor Scoring Exception 2: Potential recommendation 29

Grid Subgroup Discussion Notes:

Reduces complexity and errors and Improving the Effectiveness of the Sentencing System:

- The rationale for this scoring exception is that stealing a car is considered a continuation or escalation of previous vehicle prowl behaviors. A third or subsequent vehicle prowl 2 offense becomes a felony offense at OSL 4. For individuals with their first theft of a motor vehicle, it is a felony offense at OSL 2, but the prior prowls increase criminal history score.
- Not all vehicle prowls are with the intent to steal a car – thus theft of a motor vehicle may not always reflect increasing intensity of behaviors – it may be a change in behavior. However, for those who are prowling with intent to steal a car, it doesn't make sense that the third time they're caught for prowl (i.e., they are stopped before they steal the car) the sentence is greater than the individual who successfully steals the car on the third try.
- Creating a new offense for theft of a MV with two prior vehicle prowls and making that OSL 4 makes it consistent with the third and subsequent vehicle prowl convictions. However, it should be considered whether it makes sense to have these MV theft offense at OSL 4, given the other offense in this OSL.
- Eliminating the special scoring rules increases transparency, increases defense flexibility in plea bargaining process, and significantly reduces complexity and error in the calculation of CHS.

Offense	Without prior prowl	With 2+ prior prowl
Theft of a motor vehicle	OSL 2	OSL 4
Possession of a stolen motor vehicle	OSL 2	OSL 4
Taking a motor vehicle without permission – first degree	OSL 5	OSL 6
Taking a motor vehicle without permission – second degree	OSL 1	OSL 4
Vehicle Prowl – 2 nd degree (third or subsequent)		OSL 4

Misdemeanor Scoring Exception 2: Theft of a Motor Vehicle...

Potential Recommendation 29b: Eliminate the special exception misdemeanor scoring for vehicle prowling.

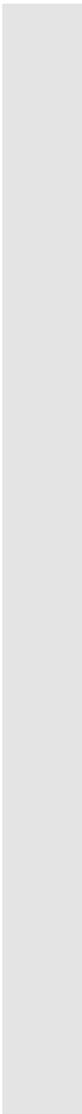
Grid Subgroup Discussion Notes:

Reduces complexity and errors and Improving the Effectiveness of the Sentencing System:

- Given the type of offenses in OSL 4, theft of motor vehicle related offenses do not seem to fit in this OSL – not comparable to the type of offenses.
- Concerns expressed that this scoring exception is the result of the “crime-of-the-day” logic. Represents an expansion of the authority under the SRA which is otherwise focused on felony offenses.



BREAK



Misdemeanor Scoring Exception 3: Homicide or Assault by Watercraft Offenses

Homicide or Assault by Watercraft offenses:

- a. Adult and Juvenile Homicide or Assault by Watercraft offenses count as 2 points
- b. Certain adult Traffic Misd/Gross Misd offenses count as 1 point
- c. Certain juvenile Traffic Misd/Gross Misd offenses count as 1/2 point
- d. Any other felony offenses count standard

Misdemeanor Scoring Exception 3: Homicide or Assault by Watercraft Offenses

***Potential Recommendation 30:** Eliminate the special misdemeanor scoring exceptions for homicide or assault by watercraft offenses and reclassify to the same OSL as the felony traffic offense.*

Grid Subgroup Discussion Notes:

Reduces Complexity and Errors and Improving the Effectiveness of the Sentencing System:

- Reduces complexity by having these offenses mirror traffic offenses. Committing the same offense in a boat vs. a car is really about a different affluence of the individual committing the offense.
- Felony traffic offenses for which misdemeanors count should be limited to offenses that can be committed by vehicle and boat.
- Felony traffic does include things that you wouldn't have in a boat, for example, eluding.

Misdemeanor Scoring Exception 4: Felony Domestic Violence

Felony Domestic Violence (defined in 9.94A.030) where DV was pleaded and proven:

- a. Count 2 points for each Adult offense where DV was pleaded/proven after 8/1/2011 for any of the following offenses: Violation of a No Contact or Protection Order, felony Harassment, felony Stalking, Burglary 1°, Kidnapping 1° or 2°, Unlawful Imprisonment, Robbery 1° or 2°, Assault 1°, 2° or 3°, or Arson 1° or 2°.
- b. Count 2 points for each Adult offense where DV was pleaded/proven after 7/23/2017 for any of the following offenses: Assault of a Child 1°, 2° or 3°, or Criminal Mistreatment 1° or 2°.
- c. Count 1 point for each 2nd and subsequent Juvenile offense with DV was pleaded/proven after 8/1/2011 for the list of offenses under (a) above.
- d. Count one point for each adult offense for a repetitive domestic violence offense (misd/GMs), where domestic violence was pleaded/proven after 8/1/2011
- e. Any other felony offenses count standard

Misdemeanor Scoring Exception 4: Felony Domestic Violence

Potential Recommendation 31: Eliminate the misdemeanor scoring exception and instead create an aggravated factor or enhancement.

- *Maintain a way for judges to consider prior misdemeanor DV at sentencing.*
- *Aggravating factor would then be constrained under the potential recommendation for limiting increases in sentences as a result of aggravating factor.*
- *Potentially limited to offenses involving the same victim/same relationship.*
- *Potentially an option similar to the repeat violent column approach.*

Grid Subgroup Discussion Notes:

Reduces Complexity and Errors, Improving the Effectiveness of the Sentencing System, and Promotes/Improves Public Safety:

- Prior DV is a high predictor of lethality in DV.
- Doesn't require that the priors be against the same person. But still allowed to be introduced in court.

Current Aggravating Factor

The current offense involved domestic violence, as defined in RCW [10.99.020](#), or stalking, as defined in RCW [9A.46.110](#), and one or more of the following was present:

- (i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time;
- (ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or
- (iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.
- (i) The offense resulted in the pregnancy of a child victim of rape.
- (j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

Potential Recommendation 32

Potential Recommendation 32: *Include language in the SRA that would define the scope of the CHS as limited to prior felony convictions.*

Grid Subgroup Discussion Notes:

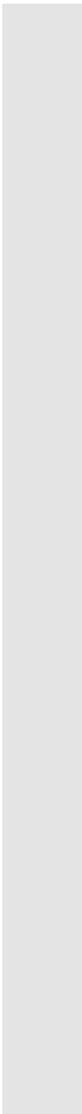
Reduces Complexity and Errors and Improving the Effectiveness of the Sentencing System:

- Would increase the likelihood of long-term consistency and prevent future misdemeanor scoring exceptions, which create complexity and increase calculation errors. Currently disproportionate discretion in that full discretion of the legislature to decide when they should or should not count.
- SRA was not originally intended to cover misdemeanors except for where there is an explicit step up of the same offense (e.g., DUI).
- Inclusion of misdemeanors has led to complexity, errors in calculating CHS, and uncertainty. Inherent issues with reliability and accuracy of prior misdemeanors because reliance on municipal court data.



3:30 - 3:50pm

Public Comment

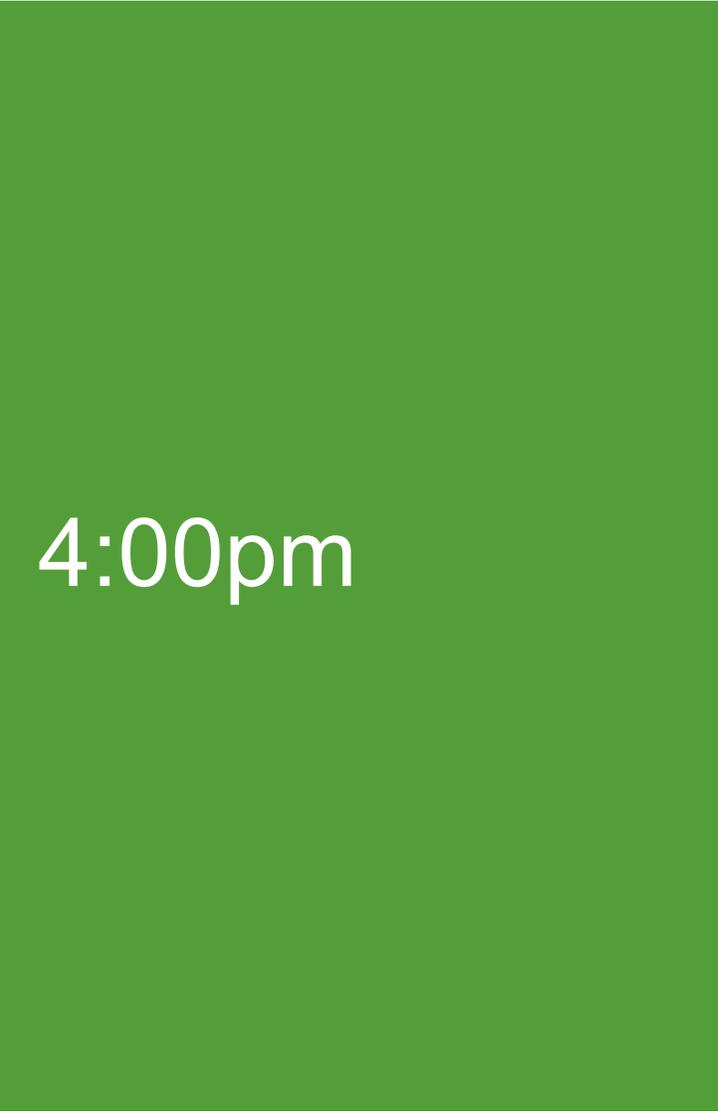


3:50 - 4:00pm

Recap and Action Items

Closing Reflections

What's one hope you have for the Task Force going into the summer?



4:00pm

ADJOURN

